FEATURE: What’s Your Status?

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When Jose* kissed his boys goodbye one morning in 2014, they had no idea it would be more than a year before they saw him again. In the weeks leading up to his deportation deadline, he and his wife had discussed how that dreaded morning would go. They decided not to alarm the kids—better if Jose were seemingly off to work instead of off to Mexico for an undetermined amount of time. “I pretended nothing was happening, everything was normal,” he said. “In the morning I told them I was going to work and I left.”

Since a Salt Lake City immigration judge issued his removal order from Jackson Hole a month earlier, Jose had had a deep pit in his stomach. He knew that for his wife, single parenting two boys in the valley would be exceptionally hard, but there was no alternative. Though he hadn’t returned to the Mexican town where he was born in more than 11 years, he knew it didn’t offer anything for him or his family, especially not the medical care his youngest child needs.

From 1,000 miles south of the Mexican border, Jose would be able to do next to nothing to help his wife. Sending money to America would be pointless–a pittance. He felt helpless.

Many undocumented immigrants face the reality that at any moment their families can be torn apart. Conventional wisdom says to obey the law and all will be OK, but for some, all it takes is being at the wrong place at the wrong time, or a minor slip-up. Sometimes, where local law enforcement overlaps with Immigration and Customs Enforcement (ICE), an unfortunate few fall through the cracks, are separated from their families and forced to leave the place they consider home. And once this happens, there is nothing anyone, not even local law enforcement, can do to reverse the process.

The day everything changed

Jose remembers opening the door to his dilapidated apartment, where he lived with his very pregnant wife and their son, to find a neighbor’s friend agitated and yelling at him about noise. He said he could do nothing to calm her. She threatened to call the police. He closed the door.

A second knock came. He opened the door expecting the same young woman, but instead he was met by a police officer. Confusion and then chaos ensued during his interaction with the officer and Jose says he was wrongfully arrested for assaulting a police officer and taken to jail.

Jose had no criminal history and the charges were dropped. He claims he was even issued an apology. Nevertheless, he sat in jail for days and was then transferred to an ICE detention facility in Denver. He was released after 20 days.

But things only got worse. A long five years, three attorneys, and more than $20,000 later, Jose was ordered to leave his family and the country when his last attorney failed to file some paperwork on time. He was given 30 days to leave the place he had called home for 17 years.

Today, sitting on the floor of his family's apartment in Jackson, he reflected that at the time he felt like the fate of his small family balanced on the moods of those who had power over his future, from the arresting officer the night of the incident to the judge in Salt Lake City. He said the last six years of his life had been determined by whether "someone was having a good day, if the judge's wife had been nice to him, if they had good coffee."

Tearing up roots

It's hard for the average citizen to fully understand what it's like to live in fear of being deported and separated from your family and friends. But for someone like Jose, he knows one encounter with a highway patrolman could alter his life.

Immigration law is one of the more complicated legal spheres. There are distinctions between local, state, and federal law enforcement agencies, which determine the laws these agencies enforce, as well as jurisdictional limitations, funding, and the list goes on. Immigration law is federal, and therefore not technically enforceable by local law enforcement. On occasion, these agencies cooperate and share info, mostly to keep dangerous people off of the streets or to solve heinous crimes.

Identity is often the first piece of solving crimes or enforcing laws. When someone is pulled over for a traffic violation, an officer asks for identification simply to ascertain a person's identity. They run a quick check through local dispatch for any notes on past interactions and then in the state's record management system (RMS). If it's not the person's fifth time driving without a license, for instance, which is a common offense of undocumented immigrants, the officer is likely to issue a citation or a warning. During these instances, at no point does a person's immigration status have any importance, according to Jackson Hole Police Chief Todd Smith.

In a perfect world, officers wouldn't ask about status during stops where that information is irrelevant. But locally, immigration attorney Rosie Read, of Trefonas Law, says there have been reports of law enforcement asking for immigration status during routine traffic stops.

However, body cameras worn by officers provide a new avenue for accountability, Read noted. After a couple clients informed the attorney that they had been asked about their status during routine traffic stops, Read sought out footage from body cams and lo and behold, the evidence was there. Read advised: "You can politely tell the officers that you do not want to talk about your status or would like to speak with a lawyer first."

Regarding officers who do not follow protocol, Smith said sometimes even after training, officers "go right, when you trained them to go left." The answer, he says, is to call them in and address the issue. Smith said problems, "are quickly identified and don't last long in law enforcement." However, officials from both JHPD and Teton County Sheriff's Office maintain the vetting process is rigorous and problems like this are few and far between.

Even though officers don't ask about a person's status that doesn't mean the info is not gleaned or outright expressed, but it's still usually extraneous, Smith said. "A person's immigration status is not relevant, it's an interesting fact to know but it has no bearing on the reason for contact."

Unless they need to track down a person for a crime, and there's reason to believe the person is foreign born and may flee the country, a person's status and the folks at ICE have little to do with everyday police work.

However, during routine interactions with local law enforcement, those without IDs face an increased chance of arrest. According to a FAQ info sheet from Trefonas Law, technically, undocumented Wyoming residents cannot legally drive and doing so could result in arrest. But both officials of JHPD and TCSO said it is not their policy to arrest for driving without a license, especially if the person has ID.

In general having a valid ID helps. Read said consulate issued IDs, passports, and licenses from other states are acceptable. "Even the Mexican Consulate Metricula ID—previously most local law enforcement wasn't accepting it because the Consulate wasn't verifying ID well enough, but new cards being issued in the last year are being accepted," she said.

Regardless of ID, if during contact with law enforcement a person is unruly, has a criminal record or a history of repeated violations, or an officer suspects this person will not show up in court to address his ticket, the person will likely be taken into custody.

Simply avoiding arrest is the best possible way to avoid ICE. Smith explained that it is upon formal booking in jail that ICE is notified due to extensive criminal checks. The fingerprints of any foreign-born individual who comes into the jail are automatically sent to ICE.

And convicted or not, as Read said, "There's no way to undo that. Once ICE knows you're here, it's too late."

When asked how often ICE is contacted due to a wrongful or dismissed charge, Smith said it wasn't often.

Read agreed, but she says it does happen. "What's really unfortunate is if it's a serious charge, they treat that as gospel—you're treated as if you were convicted."

But not even that is guaranteed. Just because ICE is made aware of an undocumented person's whereabouts in this process that doesn't mean they will do anything about it.

Sergeant Todd Stanyon of TCSO claims Wyoming Highway Patrol calls ICE every time they stop a foreign-born individual, but he said, "ICE is so stretched. Anecdotally, when ICE does come to take someone, it's someone who has repeated offenses, often for domestic violence or repeated DUIs."

Even though officers ultimately have discretion over when to arrest and public safety is paramount, Smith said officers like to miminze the amount of paperwork they fill out, and arrests in general are paperwork intensive.

The current ICE Priority Enforcement Program (PEP) dictates that immigrants apprehended for committing a crime are to be prioritized for "removal" based upon specific criteria. Proponents believe the new system effectively targets criminals, which more or less seems to be the case in Teton County.

According to PEP directives, resources, enforcement, and removal policies of aliens in the country "should continue to prioritize threats to national security, public safety, and border security." The second priority group it lists as "misdemeanants and new immigration violators." Priority three includes other immigration violations. However, the program provides for a lot of interpretation and discretion at all levels, from local law enforcement to immigration officials.

From a number's standpoint, the structure and targeting of PEP appear to be working well.

According to Department of Homeland Security's mandated reporting, ICE deportations were slashed by more than half from 2012 to 2016 when 240,255 people were deported, 99 percent of whom aligned with immigration enforcement priorities.

Locally, PEP seems to be working as intended as well. Since it was introduced, Read says most of the people arrested here do not fall in the priority enforcement categories, so there's been a drop off in notices to appear, the charging document for deportation proceedings.

But it's difficult to get info on how many people, and for what crimes, have been turned over to ICE from Teton County jail. Tracking down an actual person from the Cheyenne ICE field office is difficult too.

However, a quick look at 2016 arrest reports by race and charge provided by the Jackson Hole Police Department reveals approximately 25 of 123 Hispanics arrested were for violent crimes. Roughly 20 percent of the total arrested potentially fall into PEP categories.

DHS/ICE chalks its high rate of PEP deportations to increased cooperation with local law enforcement. With greater streamlining, DHS expects to see those numbers increase in the future, according to its annual report.

However, not everyone views the cooperation as positive. According to the Immigrant Legal Resource Center, DHS is the largest law enforcement agency in the country, and since its inception 14 years ago, it has built a massive infrastructure that exploits local resources to detain and deport immigrants. Even when localities take steps to limit interaction with ICE though, some interaction is unavoidable.

ILRC reports "tremendous success of local policies that disentangle local law enforcement from ICE" and it supports initiatives to do so. The organization maintains that communities are healthier overall when they know their local law enforcement agencies are not involved in deportations; people are better integrated, children live in less fear and crime drops.

Overall, Wyoming receives a moderate rating from ILRC, Natrona County withstanding, which means there is general non-compliance with ICE detainers. Jurisdictions in the "moderate" category will inform ICE of someone in custody and their scheduled release, but will not hold anyone for them. But this designation seems to be slightly different from how Teton County operates.

The sheriff's office cooperates with ICE through the use of detainers, or administrative warrants requesting that individuals in custody be held and turned over to ICE.

Stanyon said the sheriff's office honors any request from ICE. "If Immigration is looking for someone, they can send a detainer. But, if they're not in our custody then there's nothing the sheriff can do," he said. "ICE has come and waited at a hearing to take someone after it's over. They tell us, 'we're here looking at someone' but they come and do their own thing."

According to an October 2016 legal update on immigration detainers, ILRC says the detainers that ICE uses continue to be ruled unconstitutional in federal courts and "recent court decisions have found even greater legal defects with ICE's enforcement operations." In response to the latest rulings, hundreds of jails stopped honoring ICE detainers.

Trickle-down fears

Some cities, municipalities, and detention facilities have implemented policies to curb local law enforcement's cooperation with ICE to protect community members like Jose. These actions have garnered attention from President-elect Donald Trump, even though his actual position on immigration is hard to nail down.

After flip-flopping wildly on the subject of immigration, Trump released his "Contract with the American Voter: 100 Day Action Plan" in October. Canceling all federal funding to "sanctuary cities," the list declares, will be one of his first actions as president. In spite of this, many high profile cities have vowed to carry on with their protective policies.

There is no archetypal sanctuary city in America, but according to VICE News, there are hundreds of counties in the US that provide some form of "refuge." Generally, this means towns, cities, counties, or holding facilities refuse to assist ICE except in the case of violent crimes. What this looks like in practice varies.

According to a CNN Money report, New York City, where officials have refused to turn immigrants over to ICE for things like jumping turnstiles or traffic violations, could face a loss of $10.4 billion in federal funds, applied mostly to human, children's and housing services. NYC does not, however, offer protection to violent or felony offenders.

Santa Fe's Mayor Javier Gonzalez has implemented similar measures to protect the immigrant population. The same article reported his city stands to lose $6 million dollars, 2 percent of its annual budget. "The loss of federal funds would be certainly devastating," Gonzalez told CNN, "but we're not going to compromise our values. We'll have to find our way through it and we will."

Gonzalez's decision is not solely altruistic. Santa Fe's tourism-driven economy, which brings in about $1.4 billion a year, also plays a role. He says the new immigrant provides "a critical supply

of labor and skill sets that are needed to meet the ongoing demand of a healthy tourism economy."

Weighing the cost

Aside from human factors there are other drawbacks to local law enforcement cooperating with ICE. From an economic standpoint, Jackson Hole could take a lesson from Santa Fe regarding the protection of its tourism/immigrant -driven economy.

In 2007, the Jackson Town Council and the Teton County Board of Commissioners commissioned a study by the University of Wyoming on the economic impacts of Latinos in the county. At that time, according to the study, Latinos comprised 6 percent of the county's population.

The UW study found that immigrant workers held 15 percent of jobs in Teton County in 2007, which were concentrated mainly in tourism/service related jobs and construction. The immigrant labor force accounted for 11 percent of Teton County's $3.2 billion industry output ($355 million).

The study noted that due to some limitations, it was not possible to estimate if the overall economic impact was a net positive or negative. But in the 10 years since the study was conducted, the population of immigrant workers has grown and their economic impact decidedly has too.

Jackson's economic benefit from its undocumented workforce needs to be weighed against a possible loss of federal funding. If Congress were to pass legislation limiting or eliminating federal funding to locations that implement protective measures for immigrant populations, Jackson could potentially be at a financial risk.

Kelly Thompson, the Town of Jackson's financial director, provided PJH with the 2016 budget audit for the town's federal awards. In 2016, the town received $3.17 million in federal funds, 7 percent of the town budget. Of the total federal funding, START operational monies accounted for 70.8 percent, and the remaining $950K went to capital projects. Thompson said if this funding were lost, the town council would have to decide where to rustle up funds to replace it, not an easy feat.

Mining trust

Local law enforcement officials have their own immigrant fears, although they stem from a different aspect of policing: public trust.

Cooperation between the public and local law enforcement is essential to police work. Lieutenant Tom Combs, of the Teton County Sheriff's Office, said during training deputies are told: "The badges we wear are the symbol of public trust—they are meaningless without the trust of the public."

"We want as good of a relationship with our Latino community as possible," Combs said.

Balancing public trust with law enforcement duties is a practice supported by research. According to the National Institute for Justice, "research consistently shows that minority groups

are more likely than whites to view law enforcement with suspicion and distrust." And when trust is eroded police lose the ability and authority to function effectively.

In a way, local law enforcement faces a dilemma. Their job is to enforce laws–granted, not federal laws. And even though it helps to cooperate with federal agencies on occasion, it also helps to cultivate and maintain trust with the local population, no matter their status.

Often unnoticed is the underside of Jackson, Combs said. "We also know we have Latino gang members here in addition to hardworking people. We do a good job of dealing with who we need to deal with." Though Combs says their job relies on people wanting to report things and not feel they will be targeted for immigration.

But there is also maintaining the trust of those who oppose unlawful immigration at any cost. Whalen reports most of the email and communication he receives from the public on this matter is from those who encourage him to help ICE. His job, he says, is to enforce the law.

Why the fear then?

Even though Jose's story appears to be the exception to the rule, the randomness of how someone like Jose ends up being torn from his family is seemingly what exacerbates the fears of many undocumented people—that, and a history of discrimination, unfair treatment and targeting.

PJH cover story "Melting Pot of the West" (January 3) by Sarah Ross, detailed the plights of immigrants who settled in Wyoming, a state with a long and hostile history towards them. Ross discussed the 1950s initiative "Operation Wetback," where upwards of 100,000 Mexicans were rounded up by US immigration officials and forcibly deported in cargo ships to Mexico. The discriminatory initiative, where nearly 100 people died during their deportation, stemmed from fears that Mexicans were taking white America's jobs—a notion that has managed to endure among some Americans to this day. During a November 2015 campaign speech, Trump lauded Operation Wetback as a possible model for his immigration plan.

Ross also reported on the 1990s roundups in Jackson Hole. A week before Labor Day, in 1996, more than 150 people were rounded up, inked with temporary identification numbers on their arms and transferred to the jail in patrol cars and horse trailers.

JHPD's Smith remembers the 90s raids—that occurred under former president Bill Clinton's immigration policies—because he participated as a low ranking officer.

He says back in the 90s people did not embrace immigrants, and that immigrants were far less deterred by fear of deportation. People would get deported and sometimes be back within 60 days, he said.

Word of mouth is also pretty powerful for memorializing events. According to the Latino Resource Center's 2015 Latino Community Assessment that polled more than 500 Latinos in the valley, about 80 percent of people polled did not live in the valley during the raids. But that doesn't necessarily mean the memory of it did not last, or that people don't import experiences from places they lived before Jackson.

“All people have a life before they come here. Maybe they had some interactions in Texas or Arizona and weren’t treated right. We’re a collection of our life experiences,” Smith said.

Nowadays, local law enforcement focuses on criminal immigrants. “Things progress, the world is a different place,” he said.

Indeed, Smith has the numbers to back up his assertions that things have changed. The police chief runs reports on his department’s arrests every couple of weeks and provided PJH with arrest reports classified by race and charge for both 2006 and 2016. Numbers from all agencies in the valley that use the jail, such as the National Park Service, are included.

Of the 770 arrests made in 2016, Hispanics accounted for 123—16 percent of the total; whites accounted for 606 arrests, or 79 percent of the total.

Smith said 2016’s numbers reflect ideal arrest percentages. Jackson’s Latino population fluctuates between 20 and 30 percent of the total population and law enforcement officials aim for arrest numbers to be commensurate with that. Teton County’s numbers are lower.

When compared to 2006 numbers, arrests in general decreased by 15 percent in 2016. A decade ago, there were 902 arrests in the system, which included 172 Latinos and 702 white arrestees, 19 and 78 percent respectively. In 2006, Latinos made up less than 6 of the population in Teton County yet accounted for 19 percent of arrests. Latinos today make up approximately 25 percent of the population and only 16 percent of arrests in the county.

Teton County’s immigrant arrest numbers are in line with findings from conservative public policy research organization, the CATO Institute’s study on immigrant criminality: “With few exceptions, immigrants are less crime prone than natives or have no effect on crime rates.” Jackson’s arrests fit the study’s mold: incarceration rates of native-born citizens are routinely two to five times higher than that of immigrants.

That being said, local data has some holes. Whalen, though he doesn’t run arrest reports, says he is confident in his department’s monitoring and review process. Initially, he did not believe in “faith reliance” on data over the supervisory system, but he would not be opposed to using it to crosscheck performance in the future.

Whalen said he wants the community and the press to hold him accountable and to inform him of any potential trends skewed in any direction. While he has not received word one way or another from local organizations, he says he hopes this communication could be more robust moving forward.

And in fact, Whalen said, movement in that direction was already underway as he was scheduled to attend a meeting with several stakeholders and the JHPD the following day.

Partnership for the future

Before the Christmas holiday, representatives from both the police department and sheriff’s office sat down with the staff of One22 and Trefonas Law Office, and other stakeholders, to discuss immigration under a Trump administration and how they could partner to ensure the best

outcome for the community. Overall, Read says the meeting was successful and everyone was more or less in agreement.

TCSO’s Combs attended the meeting. He echoed Read: “The meeting this morning was awesome. Fear can be abolished with good communication.”

Attendees decided to collaborate on a future informational meeting, likely after Trump’s inauguration when more concrete details are known. Consensus was that law enforcement would have a more visible role in whatever is to come.

From a legal standpoint, Read said they are planning for a worst-case scenario regarding everything immigration. “The best thing we can do, in my opinion, is to continue that approach of trying to provide accurate, clear information about what we can realistically expect from the Trump administration.”

Trefonas Law staffers had already prepared an information sheet with the five most frequently asked questions regarding Trump and immigration, which they hope to circulate in both English and Spanish.

Read said town electeds are working on legislation to protect nonviolent undocumented offenders. “But Jackson doesn’t run the jail, the sheriff does,” she said.

While some have advocated for a joint agreement between the town and county, it would be difficult to procure because the sheriff follows directives from the state.

In the meantime, Read encourages members of the community to lobby state legislators to allow undocumented residents to get driver’s licenses in the state, and for Wyoming to soften its cooperation with ICE. In a separate conversation, Whalen committed to PJH that he would lobby the county to expand START service as a means to help unlicensed drivers with their commutes. “Our main goal is to prevent violations, and a more robust public transportation system makes sense,” he said.

By and large, the numbers seem to check out in favor of fairness and non-discriminatory local practices. And anecdotally, Teton County exercises discretion with how and when to cooperate with ICE.

Jackson’s undocumented immigrant community is not in danger of being turned over to ICE indiscriminately, with the exception of a hapless few. However, necessary protections for undocumented immigrants could take on new meaning if Trump decides to expand the definition of criminal alien to include all unlawful immigrants. As a community, residents would then need to decide if the town should implement other measures to protect people.

While the future of undocumented immigrants in the US remains uncertain, Jose says a life in Mexico for some is far riskier than possible deportation from the US. Visibly wrenched, he recounted his grueling and dangerous journey back from Mexico. He shared images and stories from beyond the border—a trailer full of lifeless children gutted for organs, women dressed in drag to avoid being pimped or raped, of his kidnapping by Mexican mafia. Jose risked his life making his way back to his family and “the only place that feels like home.”

"You get used to the stress," Jose said, describing the fear of deportation. "We humans evolve to handle our situations. If there's a chance for my kids to have a better future than the one that I have myself, it's worth a try at least. It's a risk you have to take and I hope the payoff is good and if it isn't, then at least I tried." PJH